

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

**SA 4456.** Mr. RISCH (for himself and Mr. MURPHY) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

**Subtitle H—Diplomatic Support and Security**

**SEC. 1291. SHORT TITLE.**

This subtitle may be cited as the “Diplomatic Support and Security Act of 2021”.

**SEC. 1292. FINDINGS.**

Congress makes the following findings:

(1) A robust overseas diplomatic presence is an effective foreign policy, particularly in unstable environments where a flexible and timely diplomatic response can be decisive in preventing and addressing violent conflict.

(2) Diplomats routinely put themselves and their families at great personal risk to serve their country overseas where they increasingly face threats related to international terrorism, violent conflict, and public health, among others.

(3) The Department of State has a remarkable record of protecting personnel while enabling an enormous amount of global diplomatic activity, often in insecure and remote places and facing a variety of evolving risks and threats. With support from Congress, the Department of State has revised policy, improved physical security through retrofitting and replacing old facilities, deployed additional security personnel and armored vehicles, and greatly enhanced training requirements and facilities, including the new Foreign Affairs Security Training Center in Blackstone, Virginia.

(4) However, there is broad consensus that the pendulum has swung too far toward eliminating risk, excessively inhibiting diplomatic activity, too often resulting in embassy closures, reducing footprints, and postponing or denying travel requests.

(5) Diplomatic missions rely on robust staffing and ambitious external engagement to advance United States interests as diverse as competing with China’s malign influence around the world, fighting terrorism and transnational organized crime, preventing and addressing violent conflict and humanitarian disasters, promoting United States businesses and trade, protecting the rights of marginalized groups, addressing climate change, and preventing pandemic disease.

(6) Despite the fact that Congress currently provides annual appropriations in excess of \$1,900,000,000 for embassy security, construction, and maintenance, the Department of State is unable to fully transform this considerable investment into true overseas presence given excessive movement and safety restrictions that inhibit the ability of diplomats to—

(A) meet outside United States secured facilities with foreign leaders to explain, defend, and advance United States priorities;

(B) understand and report on foreign political, social, and economic conditions through meeting and interacting with community officials outside of United States facilities;

(C) provide United States citizen services that can be are often a matter of life and death in insecure places; and

(D) collaborate and, at times, compete with other diplomatic missions, such as the People’s Republic of China, that do not have the same restrictions on meeting locations.

(7) Given these stakes, Congress has a responsibility to empower, support, and hold the Department of State accountable for implementing an aggressive presence strategy that mitigates potential risks and adequately considers the myriad direct and indirect consequences of a lack of presence.

**SEC. 1293. ENCOURAGING EXPEDITIONARY DIPLOMACY.**

(a) PURPOSE.—Subsection (b) of section 102 of the Diplomatic Security Act (22 U.S.C. 4801(b)) is amended—

(1) by amending paragraph (3) to read as follows:

“(3) to promote strengthened security measures, institutionalize a culture of learning, and, in the case of apparent gross negligence or breach of duty, recommend the Director General of the Foreign Service investigate accountability for United States Government personnel with security-related responsibilities;”;

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) to support a culture of risk management, instead of risk avoidance, that enables the Department of State to pursue its vital goals with full knowledge that it is not desirable nor possible for the Department to avoid all risks;”;

(b) BRIEFINGS ON EMBASSY SECURITY.—Section 105(a)(1) of the Diplomatic Security Act (22 U.S.C. 4804(a)) is amended—

(1) by striking “any plans to open or reopen a high risk, high threat post” and inserting “progress towards opening or reopening high risk, high threat posts, and the risk to national security of the continued closure and remaining barriers to doing so”;

(2) in subparagraph (A), by striking “the type and level of security threats such post could encounter” and inserting “the risk to national security of the post’s continued closure”; and

(3) in subparagraph (C), by inserting “the type and level of security threats such post could encounter, and” before “security ‘tripwires’”.

**SEC. 1294. INVESTIGATION OF SERIOUS SECURITY INCIDENTS.**

(a) Section 301 of the Diplomatic Security Act of 1986 (22 U.S.C. 4831) is amended—

(1) in the section heading, by striking “AC-COUNTABILITY REVIEW BOARDS” and inserting “SECURITY REVIEW COMMITTEES”;

(2) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) CONVENING THE SECURITY REVIEW COMMITTEE.—

“(A) IN GENERAL.—In any case of a serious security incident involving loss of life, serious injury, or significant destruction of property at, or related to, a United States Government (USG) diplomatic mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a USG mission abroad, a Security Review Committee (SRC) into the event shall be convened by

the Department of State and a report produced for the Secretary providing a full account of what occurred.

“(B) EXCEPTION.—A Serious Security Incident Investigation need not be convened where the Secretary determines that a case clearly involves only causes unrelated to security.”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

“(2) COMMITTEE COMPOSITION.—The Secretary shall determine the composition of the SRC and designate a Chairperson. Members of the SRC shall, at a minimum, include the following personnel:

“(A) A representative of the Under Secretary of State for Management, who shall serve as chair of the SRC.

“(B) The Assistant Secretary responsible for the region where the incident occurred.

“(C) The Assistant Secretary for Diplomatic Security.

“(D) The Assistant Secretary for the Bureau of Intelligence and Research.

“(E) An Assistant Secretary-level representative from any involved United States Government department or agency.

“(F) Other personnel as determined necessary or appropriate.”; and

(D) by adding at the end the following new paragraph:

“(5) REGULATIONS.—The Secretary of State shall promulgate regulations defining the membership and operating procedures for the SRC and provide to the Chairmen and ranking members of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, in writing, a description of how the SRC will be structured with respect to any other standing committees.”;

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “Except as” and all that follows through “a Board” and inserting “The Secretary of State shall convene a SRC”; and

(ii) by striking “for the convening of the Board”; and

(B) in paragraph (2), by striking “Board” each place it appears and inserting “SRC”; and

(4) in subsection (c)—

(A) by striking “convenes a Board” and inserting “convenes a SRC”;

(B) by adding “and ranking member” after “chairman”; and

(C) by striking “Speaker” and all that follows through the period at the end of paragraph (3) and inserting “chairman and ranking member of the Committee of Foreign Affairs of the House of Representatives.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 302 of the Diplomatic Security Act (22 U.S.C. 4832) is amended—

(1) in the section heading, by striking “AC-COUNTABILITY REVIEW BOARD” and inserting “SECURITY REVIEW COMMITTEE”; and

(2) by striking “Board” each place it appears and inserting “SRC”.

**SEC. 1295. SERIOUS SECURITY INCIDENT INVESTIGATION PROCESS.**

Section 303 of the Diplomatic Security Act of 1986 (22 U.S.C. 4833) is amended to read as follows:

**“SEC. 303. SERIOUS SECURITY INCIDENT INVESTIGATION PROCESS.**

“(a) INVESTIGATION PROCESS.—

“(1) INITIATION.—The Serious Security Incident review process begins when a United States mission reports a serious security incident at the mission, including an initial report within three days of the event.

“(2) INVESTIGATION.—The Diplomatic Security Service shall assemble an investigative

team to carry out the investigation of an incident reported under paragraph (1). The investigation shall cover the following matters:

“(A) An assessment of what occurred, who perpetrated or is suspected of having perpetrated the attack, and whether applicable security procedures were followed.

“(B) In the event the security incident was an attack on a United States diplomatic compound, motorcade, residence, or other facility, a determination whether adequate security countermeasures were in effect based on known threat at the time of the incident.

“(C) If the incident was an attack on an individual or group of officers, employees, or family members under chief of mission authority conducting approved operations or movements outside the United States mission, a determination whether proper security briefings and procedures were in place and whether adequate consideration of threat and weighing of risk of the operation or movement took place.

“(D) An assessment of whether the failure of any officials or employees to follow procedures or perform their duties contributed to the security incident.

“(b) REPORT OF INVESTIGATION.—The investigative team shall prepare a Report of Investigation at the conclusion of the Serious Security Incident Investigation and submit the report to the SRC. The report shall include the following elements:

“(1) A detailed description of the matters set forth in subparagraphs (A) through (D) of subsection (a)(2), including all related findings.

“(2) An accurate account of the casualties, injured, and damage resulting from the incident.

“(3) A review of security procedures and directives in place at the time of the incident.

“(c) CONFIDENTIALITY.—The investigative team shall adopt such procedures with respect to confidentiality as determined necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of National Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel included in the report under subsection (b). The SRC shall determine the level of classification of the final report prepared under section 304(b), but shall incorporate the same confidentiality measures in such report to the maximum extent practicable.”

#### SEC. 1296. FINDINGS AND RECOMMENDATIONS BY THE [SECURITY REVIEW COMMITTEE].

Section 304 of the Diplomatic Security Act of 1986 (22 U.S.C. 4834) is amended to read as follows:

#### “SEC. 304. [SECURITY REVIEW COMMITTEE] FINDINGS AND REPORT.

“(a) FINDINGS.—The Security Review Committee shall review the Report of Investigation prepared under section 303(b), all other evidence, reporting, and relevant information relating to a serious security incident at a United States mission abroad, including an examination of the facts and circumstances surrounding any serious injuries, loss of life, or significant destruction of property resulting from the incident and shall make the following written findings:

“(1) Whether the incident abroad was security related and constituted a serious security incident.

“(2) If the incident involved a diplomatic compound, motorcade, residence, or other mission facility, whether the security systems, security countermeasures, and secu-

rity procedures operated as intended, and whether such systems worked to materially mitigate the attack or were found to be inadequate to mitigate the threat and attack.

“(3) If the incident involved an individual or group of officers conducting an approved operation outside the mission, a determination whether a valid process was followed in evaluating the requested operation and weighing the risk of the operation. Such determination shall not seek to assign accountability for the incident unless the SRC determines that an official breached their duty.

“(4) An assessment of the impact of intelligence and information availability, and whether the mission was aware of the general operating threat environment or any more specific threat intelligence or information and took that into account in ongoing and specific operations.

“(5) Such other facts and circumstances that may be relevant to the appropriate security management of United States missions abroad.

“(b) SRC REPORT.—Not later than 30 days after receiving the Report of Investigation prepared under section 303(b), the SRC shall submit a report to the Secretary of State including the findings under subsection (a) and any related recommendations. Not later than 90 days after receiving the report, the Secretary of State shall submit the report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

“(c) PERSONNEL RECOMMENDATIONS.—If in the course of conducting an investigation under section 303, the investigative team finds reasonable cause to believe any individual described in section 303(a)(2)(D) has breached the duty of that individual or finds lesser failures on the part of an individual in the performance of his or her duties related to the incident, it shall be reported to the SRC. If the SRC find reasonable cause to support the determination, it shall be reported to the Director General of the Foreign Service for appropriate action.”

#### SEC. 1297. RELATION TO OTHER PROCEEDINGS.

Section 305 of the Diplomatic Security Act of 1986 (22 U.S.C. 4835) is amended—

(1) by inserting “(a) NO EFFECT ON EXISTING REMEDIES OR DEFENSES.—” before “Nothing in this title”; and

(2) by adding at the end the following new subsection:

“(b) FUTURE INQUIRIES.—Nothing in this title shall be construed to preclude the Secretary of State from convening a follow-up public board of inquiry to investigate any security incident if the incident was of such magnitude or significance that an internal process is deemed insufficient to understand and investigate the incident. All materials gathered during the procedures provided under this title shall be provided to any related board of inquiry convened by the Secretary.”

**SA 4457.** Mr. RISCH submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 638, strike lines 18 and 19 and insert the following:  
mit to the Committee on Armed Services and the Committee on Foreign Relations of

the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on the obstructions

**SA 4458.** Mr. TILLIS submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_\_. LIMITATION ON ADJUSTMENT OF PATENT TERMS.

(a) AMENDMENT.—Section 154(b)(2) of title 35, United States Code, is amended—

(1) in subparagraph (B), by striking “No patent” and inserting “Except as provided in subparagraph (D), no patent”; and

(2) by adding at the end the following:

“(D) EXCEPTION.—Subparagraph (B) shall not apply to a patent for which is a terminal disclaimer has been filed over a later-issued patent if—

“(i) the earliest-filed application to which there is a specific reference under section 120, 121, 365(c), or 386(c) in the terminally disclaimed patent and the later-issued patent is the same; or

“(ii) the earliest-filed application to which there is a specific reference under section 120, 121, 365(c), or 386(c) in the later-issued patent is the application that was issued as the terminally disclaimed patent;

“(iii) the patents are commonly owned; and

“(iii) the later-issued patent is in force on the date of enactment of this subparagraph.”

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only to a patent for which a terminal disclaimer is filed after the date of enactment of this Act.

**SA 4459.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_\_. TREATMENT OF EXEMPTIONS AND RECORDKEEPING UNDER FARA.

(a) LIMITATION ON EXEMPTIONS.—Section 3 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 613), is amended, in the matter preceding subsection (a), by inserting “, except that the exemptions under subsections (d)(1) and (h) shall not apply to any agent of a foreign principal that is included on the list maintained by the Assistant Secretary of Commerce for Communications and Information under section 5(b)” before the colon.

(b) BOOKS AND RECORDS.—

(1) LIST OF AGENTS OF FOREIGN ADVERSARIES.—Section 5 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 615), is amended—